

**Knobbe Martens Olson & Bear LLP***Intellectual Property Law*

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TO: Examiner Matthew J. Kremer  
USPTO FACSIMILE No.: (571) 273-8300  
USPTO REFERENCE: Applicants: Gene Mason et al.  
Serial No.: 10/679,963  
Filed: October 6, 2003  
Title: OPTICAL PROBE INCLUDING  
PREDETERMINED EMISSION WAVELENGTH  
BASED ON PATIENT TYPE  
  
ATTORNEY: John M. Grover  
PHONE No.: (949) 721-2946  
ATTORNEY DOCKET No.: MASIMO.353A  
TOTAL PAGES: 12 (INCLUDING COVER SHEET)  
OPERATOR: Lisa Sierra  
DATE: September 19, 2005

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MESSAGE: ***Attached for filing in the above-referenced application are:***

■ TRANSMITTAL LETTER IN 2 PAGES

■ AMENDMENT AND RESPONSE TO  
OFFICE ACTION DATED MAY 17, 2005  
IN 9 PAGES1939782  
091905

San Diego

San Francisco

Los Angeles

Riverside

San Luis Obispo

PAGE 1/12 \* RCVD AT 9/19/2005 7:02:12 PM [Eastern Daylight Time] \* SVR:USPTO-EFXXRF-6/24 \* DNIS:2738300 \* CSID:9497609502 \* DURATION (mm-ss):03-06

**BEST AVAILABLE COPY**

Docket No.: MASIMO.353A

Page 1 of 2

Please Direct All Correspondence to Customer Number **20995**

**AMENDMENT / RESPONSE TRANSMITTAL**

Appl. No. : 10/679,963  
Applicants : Gene Mason et al.  
Filed : October 6, 2003  
TC/A.U. : 3736  
Examiner : Matthew J. Kremer

Title : **OPTICAL PROBE  
INCLUDING  
PREDETERMINED  
EMISSION WAVELENGTH  
BASED ON PATIENT TYPE**

Docket No. : MASIMO.353A  
Cust. No. : 20,995

Confirmation No. : 3580

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September 19, 2005

(Date)

John M. Grover, Reg. No. 42,610

**Mail Stop Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

- (X) an Amendment and Response to Office Action dated May 17, 2005 in 9 pages.

The fee has been calculated as shown below:

FEE CALCULATION				
FEE TYPE		FEE CODE	CALCULATION	TOTAL
Excess Claims > 20	16 - 20 = 0	1202 (\$50)	0 x 50 =	\$0
Independent > 3	3 - 3 = 0	1201 (\$200)	0 x 200 =	\$0
Multiple Claim	1.16(j)	1203 (\$360)		\$0
1 Month Extension	1.17(a)(1)	1251 (\$120)		\$120
TOTAL FEE DUE				\$120

An extension of time is hereby requested by payment of the appropriate fee indicated above.

Charge \$120 to Deposit Account No. 11-1410.

Docket No.: MASIMO.353A

September 19, 2005

App. No.: 10/679,963

Page 2 of 2

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1416.

  
\_\_\_\_\_  
John M. Grover

Registration No. 42,610

Attorney of Record

Customer No. 20,995

(949) 760-0404

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091905

SEP 19 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/679,963  
Applicants : Gene Mason et al.  
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John M. Grover, Reg. No. 42,610

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT AND RESPONSE TO OFFICE ACTION DATED MAY 17, 2005**

Sir:

In response to the Office action May 17, 2005, please amend the above-identified application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks** begin on page 5 of this paper.

09/21/2005 HVUONG1 00000008 111410 10679963

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